

## Message Text

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ACTION IO-13

INFO OCT-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10 ISO-00  
ACDA-07 CIAE-00 DODE-00 PM-04 INR-07 L-03 NSAE-00  
NASA-01 NSC-05 ERDA-05 OES-06 SS-15 EB-08 SP-02  
OIC-02 OTPE-00 /122 W  
-----090356Z 005793 /13

R 090012Z APR 77  
FM USMISSION USUN NEW YORK  
TO SECSTATE WASHDC 3123  
INFO AMEMBASSY BRASILIA  
AMEMBASSY LONDON  
AMEMBASSY MOSCOW  
AMEMBASSY OTTAWA  
AMEMBASSY PARIS  
AMEMBASSY ROME  
AMEMBASSY STOCKHOLM  
AMEMBASSY TOKYO  
USMISSION VIENNA  
USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 USUN 1070

E.O. 11652: GDS  
TAGS: TSPA, ETEL, AORG, UN  
SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE - WRAP-UP

REFS: A) STATE 975476 B) STATE 071048 C) STATE 075469

1. THE FOLLOWING SUMMARIZES THE RESULTS OF THE SIXTEENTH  
SESSION OF THE UN OUTER SPACE LEGAL SUBCOMMITTEE (LSC),  
HELD IN NEW YORK FROM MARCH 24 TO APRIL 8, 1977.

2. MOON. VIRTUALLY NO PROGRESS WAS MADE TOWARDS COMPLETING  
THE DRAFT TREATY ON THE MOON (TOM). DISCUSSION WAS NEITHER  
LENGTHY OR DIVISIVE, AND THE USDEL MAINTAINED A LOW PRO-  
FILE THROUGHOUT. THREE ISSUES REMAIN: (A) SCOPE OF THE  
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TOM; (B) INFORMATION TO BE FURNISHED ON MISSIONS TO THE  
MOON; (C) AND ESTABLISHMENT OF A LEGAL REGIME CONCERNING  
THE MOON'S NATURAL RESOURCES. THE ONLY SIGNIFICANT INI-  
TIATIVE AT THIS SESSION WAS A USSR PROPOSAL TO DELETE ALL  
REFERENCE TO NATURAL RESOURCES IN TOM AND TO DEVELOP A  
SEPARATE VOLUNTARY PROTOCOL COVERING THAT ISSUE: THE PRO-  
POSAL RECEIVED NEGLIGIBLE SUPPORT. THE EGYPTIAN DELEGATE,

ON BEHALF OF HIMSELF AND OTHER LESS DEVELOPED COUNTRIES (LDC), REQUESTED THE US TO CONSIDER CO-SPONSORING AT THE NEXT LSC MEETING A REVISION OF ARTICLE XX BIS READING AS FOLLOWS:  
"THE MOON AND OTHER CELESTIAL BODIES AND THEIR NATURAL RESOURCES ARE THE COMMON HERITAGE OF MANKIND."

3. DBS. ATTENTION WAS FOCUSED ON THE PRIMARY REMAINING OBSTACLE TO COMPLETION OF THE DRAFT DBS PRINCIPLES, NAMELY, THE ADVANCE NOTIFICATION/CONSULTATION/AGREEMENT REQUIREMENT FOR INITIATING INTENTIONAL DBS BROADCASTS TO FOREIGN STATES. FROM THE OUTSET, THE LATEST CANADA/SWEDEN DRAFTS OF THE PREAMBLE AND THE PROPOSED PRINCIPLE ON CONSULTATIONS AND AGREEMENTS BETWEEN STATES FORMED THE BASIS FOR NEGOTIATION, AND COMBINED WITH AN AUSTRIAN PROPOSAL, THOSE PROPOSALS REMAINED IN THE FOREFRONT THROUGHOUT. AT THE END, TENTATIVE, INCOMPLETE AND BRACKETED VERSIONS REMAINED, INFORMALLY LINKED AS THE BASIS FOR A POSSIBLE COMPROMISE PACKAGE. FUNDAMENTAL DIFFERENCES OF OPINION AND POLICY WERE EXPRESSED THROUGHOUT THE DBS DEBATES WITH RESPECT TO THE UNDERLYING QUESTION OF FREE FLOW OF INFORMATION VERSUS THE NEED TO CONDUCT DBS ACTIVITIES UNDER A PRIOR CONSENT REGIME GIVING "STRICT RESPECT" FOR STATE SOVEREIGNTY AND NON-INTERFERENCE IN INTERNAL AFFAIRS. IN THIS CONNECTION THE UK PAPER (A/AC.105/C.2/L.110) ON THE RESULTS OF THE 1977 ITU WORLD ADMINISTRATIVE RADIO CONFERENCE PROVED EXTREMELY HELPFUL, PARTICULARLY WITH RESPECT TO THE SPILLOVER QUESTION. THE US POSITION ON FREE FLOW WAS REEMPHASIZED IN A STATEMENT FOR THE RECORD APRIL 8, IN ACCORDANCE WITH REFTTEL B. THESE ISSUES WILL  
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UNQUESTIONABLY ARISE AGAIN WHEN THE PARENT COMMITTEE MEETS IN VIENNA IN JUNE.

4. FROM A TACTICAL PERSPECTIVE, THE INCONCLUSIVE OUTCOME ON DBS WAS CONSISTENT WITH THE US OBJECTIVES OF (A) MAINTAINING OUR PREVIOUS OPPOSITION TO PRIOR CONSENT REQUIREMENTS AND OUR STRONG SUPPORT FOR THE FREE FLOW OF INFORMATION AND IDEAS, (B) PREVENTING ADOPTION OF RESTRICTIVE TEXTS WHILE LEAVING SUFFICIENT FLEXIBILITY FOR FUTURE NEGOTIATIONS, AND (C) AVOIDING ISOLATION AS WELL AS AFFILIATION WITH ANY PARTICULAR COMPROMISE FORMULATION. IT IS CLEAR, HOWEVER, THAT A SUBSTANTIAL NUMBER OF DELEGATIONS WILL PRESS FOR A CONSENSUS SOLUTION AT THE FORTHCOMING VIENNA MEETING. THE DELEGATION THEREFORE RECOMMENDS THAT THE DEPARTMENT PROMPTLY REVIEW THE DBS RESULTS OF THIS SESSION AT THE EARLIEST POSSIBLE DATE IN ORDER TO FORMULATE A POSITION FOR THAT MEETING.

5. REMOTE SENSING. THE LSC MADE THE MOST PROGRESS IN

THIS AREA BUT FELL INTO SHARP DISAGREEMENT OVER A NUMBER OF ISSUES. SIX NEW (BUT INTERNALLY BRACKETED) PRINCIPLES WERE TENTATIVELY AGREED UPON, RELATING RESPECTIVELY TO THE ROLE OF THE UN, IMPENDING NATURAL DISASTERS, RESPECT FOR THE LEGITIMATE RIGHTS AND INTERESTS OF STATES, FURNISHING TECHNICAL INFORMATION TO THE UN AND INTERESTED STATES, INTERNATIONAL RESPONSIBILITY FOR REMOTE SENSING ACTIVITIES, AND THE RIGHT OF A SENSED STATE TO HAVE ACCESS TO DATA PERTAINING TO ITS TERRITORY. ALONG WITH THE FIVE DRAFT PRINCIPLES FORMULATED AT LAST YEAR'S SESSION, EACH OF THE NEW TEXTS CONTAINS DISPUTED LANGUAGE, AND NONE OF THE INTERESTS SET FORTH AT PARA 3 REFTEL B WERE COMPROMISED. ONLY PASSING CONSIDERATION WAS GIVEN TO THE QUESTION OF RESTRICTING DISSEMINATION OF REMOTE SENSING DATA AT OR BELOW A CERTAIN SPATIAL RESOLUTION.

6. SEVERAL ACRIMONIOUS CONFRONTATIONS RESULTED FROM  
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RENEWED AND PERSISTENT SOVIET ASSAULTS ON THE TWO-STEP COMMON ELEMENT/DRAFT PRINCIPLE PROCEDURE. NIGERIA AND MEXICO SUPPORTED THE USSR ON THIS BUT EXTENDED THE ISSUE SO AS TO CHALLENGE DIRECTLY THE LSC'S TRADITIONAL CONSENSUS PROCEDURES; THE LATTER IS LIKELY TO ARISE IN VIENNA. SIMILAR EXCHANGES TOOK PLACE WHEN THE 1976 MONGOLIAN WORKING PAPER ON PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES AND INFORMATION ABOUT THOSE RESOURCES WAS RESURRECTED AND TRANSFORMED (OVER THE STRENUOUS OF OBJECTIONS OF THE US, WITH SOME HELP FROM THE UK AND ITALY) INTO A "POSSIBLE DRAFT PRINCIPLE." APART FROM THE PROCEDURAL IRREGULARITY OF OMITTING TO FORMULATE A COMMON ELEMENT, THE DEBATE OVER WHETHER THE PRINCIPLE OF PERMANENT SOVEREIGNTY HAS ANY RELEVANCE TO INFORMATION GATHERED BY REMOTE SENSING SATELLITES WAS DIRECTLY LINKED TO DISAGREEMENT OVER THE NEED FOR A PRINCIPLE REQUIRING THE PRIOR CONSENT OF SENSED STATES, AS WELL AS TO THE OPPOSING POSITIONS ON FREE FLOW OF INFORMATION IN THE DBS AREA.

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OIC-02 OTPE-00 /122 W

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R 090012Z APR 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 3124

INFO AMEMBASSY BRASILIA

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

USMISSION VIENNA

USMISSION GENEVA

C O N F I D E N T I A L SECTION 2 OF 2 USUN 1070

7. DEFINITION/DELIMITATION. THIS ITEM RECEIVED LITTLE ATTENTION APART FROM SOME PREDICTABLE BUT RATHER BLAND STATEMENTS IN PLENARY WITH RESPECT TO WHETHER OR NOT A DEFINITION OF OUTER SPACE IS NECESSARY AT THIS TIME. GIVEN THE DIVISION OF OPINION ON THAT QUESTION, FURTHER INCONCLUSIVE DEBATE AND DISCUSSION WOULD BE THE MOST LIKELY COURSE AT THE NEXT SESSION OF THE LSC, ALTHOUGH SOME DELS (BRAZIL AND KENYA IN PARTICULAR) ARE LIKELY TO RAISE THE ISSUE AT THE VIENNA MEETING OF THE PARENT COMMITTEE.

8. GEOSTATIONARY ORBIT (GSO). THE CLAIMS OF THE EQUATORIAL STATES TO EXCLUSIVE NATIONAL JURISDICTION AND SOVEREIGNTY OVER PORTIONS OF THE GSO LYING ABOVE THEIR  
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TERRITORY WERE SQUARELY PRESENTED TO THIS SESSION IN STATEMENTS BY NON-MEMBERS COLOMBIA AND ECUADOR, WITH SUPPORT FROM KENYA AND INDONESIA. THE PROPONENTS ARGUED THAT THE GSO IS A LIMITED NATURAL RESOURCE TO WHICH THE 1967 TREATY DOES NOT APPLY AND OVER WHICH SUBJACENT STATES MAY THEREFORE UNILATERALLY EXERCISE JURISDICTION BY VIRTUE OF THEIR SPECIAL PHYSICAL RELATIONSHIP TO THE GSO. THESE ARGUMENTS WERE REBUTTED BY A MAJORITY OF THE LSC, WITH THE US, UK, USSR, JAPAN AMONG OTHERS MAKING STRONG COUNTER-ARGUMENTS. THE U.S. STATEMENT ON THE GSO (PER REFTTEL C) ON APRIL 6 EVOKED CONSIDERABLE INTEREST. WHILE THE EQUATORIAL STATES ARE NOT LIKELY TO

STOP MAKING THESE CLAIMS IN THE NEAR FUTURE, THEY CAN-  
NOT EXPECT TO RECEIVE SUFFICIENT SUPPORT IN THE LSC TO  
MAKE THEM EFFECTIVE, BUT MAY WELL ATTEMPT TO PRESS THEIR  
VIEW IN OTHER FORUMS (SUCH AS THE PARENT COMMITTEE AND  
PERHAPS THE GA).

9. OBSERVER STATUS. COLOMBIA AND ECUADOR SOUGHT AND  
RECEIVED PERMISSION TO ADDRESS THE LSC ON DEFINITION/  
DELIMITATION AND THE GSO; THEY DID NOT ENGAGE IN ANY  
DEBATE IN THE PLENARY OR IN THE WORKING GROUPS. THEIR  
REQUEST FOR FORMAL OBSERVER STATUS WAS PROPERLY TURNED ASIDE  
ON THE GROUNDS THAT ONLY THE PARENT COMMITTEE COULD  
TAKE THAT DECISION. IT CAN BE EXPECTED THAT THE QUES-  
TION WILL ARISE IN VIENNA.

10. COMMENT. ALTHOUGH THIS SESSION REMAINED FREE OF  
EXPLICIT POLITICAL STATEMENTS OR CONTROVERSY, IT WAS  
CHARACTERIZED BY A SOMEWHAT MORE CONTENTIOUS ATMOSPHERE  
THAN PREVIOUS SESSIONS. PARTICULARLY IN REGARD TO DBS  
AND REMOTE SENSING, THE CONSENSUS BASIS OF THE LSC'S WORK  
WAS TESTED BY SUBSTANTIVE AND PROCEDURAL DISPUTES CONCER-  
NING THE ISSUES OF FREE FLOW, OPEN DISSEMINATION, PRIOR  
CONSENT AND PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES  
INFORMATION. WHILE IT WOULD NOT BE ACCURATE TO SAY THAT  
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RESPECTIVE DELEGATIONS POLARIZED ALONG IDEOLOGICAL LINES,  
THE US FOUND ITS MOST RELIABLE SUPPORTERS AMONG THE UK,  
ITALY, FRG, BELGIUM, JAPAN, AND TO A LESSER EXTENT CANADA,  
SWEDEN WITH FRANCE LENDING A HAND ON OCCASION. APART  
FROM THE EASTERN BLOC, MEXICO, BRAZIL AND NIGERIA PROVED  
LEAST HELPFUL. IN THE ESTIMATION OF THE USDEL, THE SOME-  
WHAT MORE CONTENTIOUS ATMOSPHERE OF THIS SESSION RESULTED  
FROM THE FACT THAT THE LSC HAS NOW GOTTEN DOWN TO THE  
MOST IMPORTANT AND SENSITIVE ISSUES. GIVEN THIS SITUA-  
TION, WE BELIEVE THAT THE PROMPT FORMULATION OF A WELL  
THOUGHT-OUT U.S. POSITION FOR THE VIENNA MEETING,  
ESPECIALLY ON DBS, IS IMPERATIVE.  
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## Message Attributes

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**Disposition Approved on Date:**  
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**Executive Order:** GS  
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**Original Handling Restrictions:** n/a  
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**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
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22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009